IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Writ Petition No.2857 of 2003

Shri Shahu Chhatrapati Shikshan Sanstha Kolhapur ..Petitioner

vs

State of Mah and others ..Respondents

Mr S.S.Pakale for petitioner
Mr R.G.Ketkar for respondent no.2
Mr S.R.Nargolkar AGP for R l & 3
Mr Warunjikar for respondent no.4

CORAM:V.G.PALSHIKAR AND

V.R.KINGAOKAR JJ.

DATED 23.3.2006

P.C.

. Heard the learned counsel appearing for the parties.

l. This petition was filed by the Shri Shahu Chhatrapati Shikshan Sanstha Kolhapur challenging of the communication dated 30.8.2002 annexure D on page 50 of the petition. The prayer as made in this petition reads as under:

> "a) This Hon'ble Court be pleased to exercise the powers vested in it under Article 226 of the Constitution of India and to issue a writ of certioray and/or a writ

in the nature of certiorary and to call for the papers and proceedings from the custody of respondent no. 2 and 4 in respect of order in the month of August,5th 2002(Exh C) and letter dated 30.8.2002 (Exh D) thereby submitting the proposal for seeking No Objection Certificate by respondent no 2 for transferring the management of Vasantrao Naik College of Education, Kolhapur and after examining the legality, validity and propriety thereof, to quash and set aside the same.

b) Pending the hearing and final disposal of this petition, the operation,execution and implementation of the order in the month of August,5th 2002(Exh C) and letter dated 30.8.2002 (Exh D) thereby submitting the proposal for seeking No Objection Certificate by respondent no 2 for transferring the management of Vasantrao Naik College of Education, Kolhapur be stayed;

c) for interim and ad-interim relief in terms of prayer clause (b)

d) for the cost of the petition.

e) for such further and other reliefs as the nature and circumstances of the case may require."

It will thus be seen that the substantial or basic challenge is to the communication dated 30.8.2002 on the ground that it is made without authority.

2. The impugned document dated 30.8.2002 is addressed to the Regional Director, National Council for Teachers Education, Bhopal and it states that the Government of Maharashtra has no objection for transferring of Vasantrao Naik B Ed college Kolhapur of Shahu Chhatrapati Shikshan Sanstha to Shikshan Shastra Adhyapak Shikshan Sanstha Kolhapur on conditions mentioned therein. The first condition is that the both the institutions i.e. present petitioner and respondent no. 5 should make a committee by mutual agreement regarding the outstanding dues and salaries of employees, transfer of assets and liabilities and taxes on the assets etc, if any and after the transfer of management the said institute should start B.Ed college. It is the case of the petitioner that such an agreement was never entered

into between the petitioner and the respondent no. 5. Such an agreement being the condition precedent for operation of no objection issued by the State, there is no need now to quash the same and there is nothing in the communication, which can compel the petitioner Sanstha to enter into such an agreement. There is therefore, no reason to grant any of the prayers as made. Petition is accordingly disposed of.

(V.G.PALSHIKAR J)

(V.R.KINGAOKAR J)